

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

MELANIE RAEL,

Plaintiff,

vs.

Civ. No. 97-1096 JC/WWD

LEO MARQUEZ, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Plaintiff Melanie Rael's Motion to Compel [docket no. 48] filed July 7, 1998. The motion seeks an order compelling Defendant Leo Marquez to respond to certain questions posed to him at the taking of his deposition on May 14, 1998. Portions of the deposition are attached to the brief in support of the motion. The deposition was received by Plaintiff from the court reporter on or about June 2, 1998. Defendant Leo Marquez asserts that the motion to compel was not timely served as required by D.N.M. LR-Civ. 26.6, pointing out that although the deposition was taken on May 14, 1998, the motion to compel was not served until June 15, 1998. D.N.M. LR-Civ. 26.6 addresses interrogatories, requests for production, and requests for admissions. It does not address deposition practice. Even if the 20 day limitation of that rule were to be applied, it most likely would run from the receipt of the transcribed deposition. Defendant Marquez also points out that a previous motion to

compel addressed to interrogatories propounded by Plaintiff was denied as being untimely, and that Plaintiff should not be allowed to pursue the same lines of inquiry in a later deposition. I do not agree.

**WHEREFORE,**

**IT IS ORDERED** that Defendant Leo Marquez shall appear upon reasonable notice for the continuation of his deposition specifically addressed to the matters he was instructed not to answer at the time of his deposition on May 14, 1998.

**IT IS FURTHER ORDERED** that as to sanctions the motion is denied without prejudice to allow the Court to monitor compliance with this order.

  
UNITED STATES MAGISTRATE JUDGE